

E-FILED ON: November 9, 2006

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and PCMG Trading Partners XXII, L.P.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:	)	CASE NO.: BK-S-06-10725-LBR
USA COMMERCIAL MORTGAGE COMPANY,	)	CASE NO.: BK-S-06-10726-LBR
Debtor.	)	CASE NO.: BK-S-06-10727-LBR
In re:	)	CASE NO.: BK-S-06-10728-LBR
USA CAPITAL REALTY ADVISORS, LLC,	)	CASE NO.: BK-S-06-10729-LBR
Debtor.)	
In re:	)	Chapter 11
USA CAPITAL DIVERSIFIED TRUST DEED FUND,)	
LLC,	)	Jointly Administered Under
Debtor.	)	Case No. BK-S-6-10725-LBR
In re:)	
USA CAPITAL FIRST TRUST DEED FUND, LLC,)	
Debtor.	)	APPEAL REF: 06-22
In re:)	
USA SECURITIES, LLC,	)	BAP NO:
Debtor.)	

PROSPECT HIGH INCOME FUND,
ML CBO IV (CAYMAN) LTD.,
PAMCO CAYMAN, LTD.,
PAM CAPITAL FUNDING, L.P.,
HIGHLAND CRUSADER FUND, LTD.,
AND PCMG TRADING PARTNERS XXII, L.P.

Appellants,

vs.

USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC, and OFFICIAL COMMITTEE OF EQUITY
SECURITY HOLDERS OF USA CAPITAL
DIVERSIFIED TRUST DEED FUND LLC
Appellees.

HEARING:

Date: N/A

Time: N/A

**APPELLANTS' STATEMENT OF ISSUE AND
DESIGNATION OF RECORD ON APPEAL**

Pursuant to Federal Rule of Bankruptcy Procedure 8006 and Local Rule 8006, Appellants Prospect High Income Fund, ML CBO IV (Cayman) Ltd., Pamco Cayman, Ltd., Pam Capital Funding, L.P., Highland Crusader Fund, Ltd., and PCMG Trading Partners XXII, L.P. (the "Highland Funds") file this Statement of Issue and Designation of Record on Appeal for Case No. BK-S-06-10727 LBR (Jointly Administered Under Case No. BK-S-06-10725 LBR), Appeal Ref. No. 06-22, as follows:

I.

STATEMENT OF ISSUE ON APPEAL

Whether the Bankruptcy Court erred in sustaining, in its entirety, the Diversified Trust Deed Fund Committee's Objection to the Proof of Claim filed by the Highland Funds in Case No. BK-S-06-10727 LBR (jointly administered under Case No. BK-S-06-10725).

II.

DESIGNATION OF THE RECORD ON APPEAL

1. Highland Funds' Proof of Claim (Claim # 20 in Case No. 06-10727);
2. Diversified Trust Deed Fund Committee's Objection to Proof of Claim Filed by Prospect High Income Fund, et al. (Docket # 1325);

3. Declaration of Bob L. Olson in Support of Diversified Deed Trust's Objection to Proof of Claim filed by Prospect High Income Fund (with attachments) (Docket # 1323);
4. The Highland Fund's Opposition to Diversified Trust Deed Fund Committee's Objection to Proof of Claim (Docket # 1442);
5. Declaration of Michael P. Aigen (with attachments) (Docket # 1446);
6. Declaration of Davis Deadman (Docket # 1445);
7. Diversified Fund Committee's Reply to Highland Funds' Opposition to Diversified Trust Deed Fund Committee's Objection to Proof of Claim (Docket # 1515);
8. Supplemental Declaration of Bob L. Olson in Support of Diversified Deed Trust's Objection to Proof of Claim filed by Prospect High Income Fund (with attachments) (Docket # 1517);
9. Joinder by USA Capital to Diversified Trust Deed Fund's Objection to Proof of Claim Filed By Prospect High Income Fund (Docket # 1568);
10. Order Disallowing the Proof of Claim Filed by Prospect High Income Fund Against All Debtors (Docket # 1674) (*See* Copy of Order attached hereto and incorporated herein by reference as Exhibit "1");
11. Transcript of Hearing regarding Objection to Claim heard on October 19, 2006 at 9:30 a.m. (To Be Provided When Available.); and
12. Notice of Appeal (Docket #1717).

DATED this 9th day of November, 2006.

Rawlings, Olson, Cannon, Gormley & Desruisseaux

By: 

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 9th day of November, 2006, I served a true and correct copy of the foregoing Appellants' Statement of Issue and Designation of Record on Appeal via facsimile and first class mail to the following:

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Tina Goddard, an employee of Rawlings,
Olson, Cannon, Gormley & Desruisseaux

EXHIBIT 1



Entered on Docket
October 26, 2006

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Security Holders of USA Capital Diversified
Trust Deed Fund, LLC*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case No. BK-S-06-10725 LBR
Case No. BK-S-06-10726 LBR
Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725-LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

In re:
USA SECURITIES, LLC,
Debtor.

Date: October 19, 2006
Time: 9:30 a.m.
Place: Courtroom #1
(Affects indicated Debtors)

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

ORDER DISALLOWING THE PROOF OF CLAIM FILED BY PROSPECT HIGH INCOME FUND, ET AL., AGAINST ALL DEBTORS

This Court, having read and considered Diversified Trust Deed Fund Committee's Objection to Proof of Claim filed by Prospect High Income Fund et al. ("Objection"), having read and considered the Highland Fund's Opposition to Diversified Trust Deed Fund Committee's Objection to Proof of Claim ("Opposition"), having read and considered the Reply to Highland Funds' Opposition to Diversified Trust Deed Fund Committee's Objection to Proof of Claim ("Reply"), having heard and considered the oral argument of counsel with Bob L. Olson, Esq. of the law firm of Beckley Singleton, Chtd., appearing on the behalf of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, with Lenard Schwartz, Esq. of the law firm of Schwartz & McPherson appearing on behalf of the Debtors, and with CiCi Cunningham, Esq. of the law firm of Rawlings, Olson, Cannon, Gromley & Desruisseaux and Paul B. Lackey, Esq. and Michael P. Aigen, Esq., of the law firm of Lackey Hershman, LLP, appearing on the behalf of the Highland Funds, having made its findings of fact and conclusions of law on the record pursuant to F.R.B.P. 7052 and F.R.C.P. 52, and with good cause appearing therefor:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Objection is sustained in its entirety and that all the Proofs of Claim that Prospect High Income Fund, ML CBO IV (Cayman), Ltd., PAMCO Cayman, Ltd., PAM Capital Funding, L.P. Highland Crusader Fund, Ltd., and PCMG Trading Partners XXIII, L.P. (collectively the "Highland Funds") filed in all of the Debtors' cases are disallowed in their entirety and with prejudice. Those claims include, but are not limited to, Claim No. 26 in the amount of \$20,000,000 filed in the USA Commercial Mortgage Company case, Claim No. 17 in the amount of \$20,000,000 filed in the USA Capital Realty

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1 Advisors case, Claim No. 20 in the amount of \$20,000,000 filed in the USA Capital Diversified
2 Trust Deed Fund case, Claim No. 16 in the amount of \$20,000,000 filed in the USA Capital First
3 Trust Deed Fund case, and Claim No. 14 in the amount of \$20,000,000 filed in the USA Securities
4 case.

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8 By: 

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16 *Fund, LLC*

17 APPROVED/DISAPPROVED

APPROVED/DISAPPROVED

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26 *PAM Capital Funding, L.P.*
27 *Highland Crusader Fund, Ltd.,*
28 *and PCMG Trading Partners XXIII, L.P.*

Attorneys for Debtors

RULE 9021 DECLARATION

In accordance with Local Rule 9021, the undersigned certifies:

☐ The Court waived the requirements of LR 9021.

☒ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and each has:

☒ approved the form of this order; and/or

☐ waived the right to review the order; and/or

☐ failed to file and serve papers in accordance with LR 9021(c); and
the following have disapproved the form of the order:

n/a

☐ No opposition was filed to the motion and no other party or counsel appeared at the hearing.

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8 By:

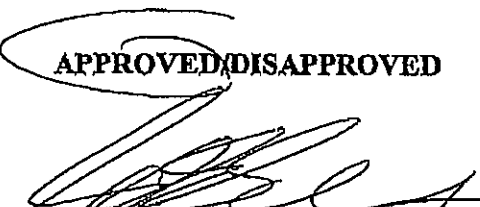
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